

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION II

CA06-1434

April 4, 2007

SHEILA LANE

APPELLANT

APPEAL FROM PULASKI COUNTY
CIRCUIT COURT, ELEVENTH
DIVISION [NO. JJN-05-1982]

V.

ARKANSAS DEPARTMENT OF
HEALTH AND HUMAN SERVICES

APPELLEE

HON. RITA WILLIAMSON GRUBER,
JUDGE

AFFIRMED

This is an appeal from an order terminating appellant's parental rights to two minor children, F.A. and A.M. Appellant's counsel has filed a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), requesting to be relieved as counsel.¹ The clerk of this court sent a certified copy of

¹In *Linker-Flores*, the supreme court described the procedure for withdrawing as counsel from a termination-of-parental-rights appeal: "[A]ppointed counsel for an indigent parent on a first appeal from an order terminating parental rights may petition this court to withdraw as counsel if, after a conscientious review of the record, counsel can find no issue of arguable merit for appeal. Counsel's petition must be accompanied by a brief discussing any arguably meritorious issue for appeal. The indigent parent must be provided with a copy of the brief and notified of her right to file points for reversal within thirty days. If this court determines, after a full examination of the record, that the appeal is frivolous, the court may grant counsel's motion and dismiss the appeal."

appellant's brief and the motion to be relieved to appellant, informing her that she had the right to file *pro se* points for reversal under Ark. Sup. Ct. R. 4-3(j)(2). Appellant has submitted a *pro se* statement in the form of a letter that is essentially a plea for clemency.

Counsel's motion was accompanied by a brief listing all adverse rulings made at the termination hearing and explaining why there is no meritorious ground for reversal to each ruling, including a discussion of the sufficiency of the evidence to support the termination order based on evidence presented at all the prior proceedings that were incorporated in the record of the termination proceeding, as required by *Lewis v. Arkansas Department of Human Services*, 364 Ark. 243, ___ S.W.3d ___ (2005).

Our careful examination of the record discloses that the children were taken into emergency custody because the mother was arrested. At the time of her arrest, although appellant had two of her five children with her, she was intoxicated to the point of incoherence such that she was unable to recall the names of her children. After the children were adjudicated dependent-neglected and a case plan was instituted, the mother failed to

Subsequently the supreme court elaborated on the reviewing court's role in reviewing a petition to withdraw in a termination-of-parental-rights appeal, holding that, when the trial court has taken the prior record into consideration in its decision, a "conscientious review of the record" requires the appellate court to review all pleadings and testimony in the case on the question of the sufficiency of the evidence supporting the decision to terminate, and that only adverse rulings arising at the termination hearing need be addressed in the no-merit appeal where there has been no appeal from the prior orders in the case. *Lewis v. Arkansas Department of Human Services*, 364 Ark. 243, ___ S.W.3d ___ (2005).

comply with virtually all of the court's orders, refused to give her correct address to caseworkers, visited the children only a very few times, and did not appear at the vast majority of the many hearings held in this case, including the adjudication and termination hearings. Based on our examination of the record, we find that counsel has complied with the requirements established by the Arkansas Supreme Court for no-merit motions in termination cases, and we hold that the appeal is wholly without merit. Consequently, we grant counsel's motion to withdraw and affirm the order terminating appellant's parental rights.

Affirmed.

MARSHALL and MILLER, JJ., agree.